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4 UNITED STATES DISTRICT COURT
5 WESTERN DISTRICT OF WASHINGTON
6 AT TACOMA

7 PAYTON DUFFEY,

8 Petitioner,

9 v.

10 JEFFREY A. UTTECHT,

11 Respondent.

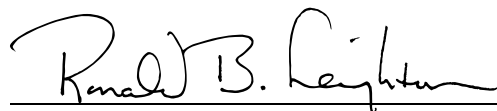
No. 3:19-CV-5694-RBL-DWC

**ORDER ADOPTING REPORT AND
RECOMMENDATION**

12 The Court, having reviewed the Report and Recommendation of Magistrate Judge David
13 W. Christel, objections to the Report and Recommendation, if any, and the remaining record,
14 does hereby find and ORDER:

- 15 (1) The Court adopts the Report and Recommendation.
16 (2) Petitioner's federal habeas Petition is dismissed without prejudice.
17 (3) A certificate of appealability is denied in this case.
18 (4) As the Court dismisses the Petition without prejudice and will not issue a
19 certificate of appealability, the Court finds Petitioner should not proceed *in forma*
20 *pauperis* on appeal.
21 (5) The Clerk is directed to send copies of this Order to Petitioner, counsel for
22 Respondent, and to the Hon. David W. Christel.

23 **DATED** this 13th day of December, 2019.
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Ronald B. Leighton
United States District Judge